

**RAILROAD COMMISSION OF TEXAS
FORMAL COMMISSION ACTION
JUNE 22, 2004**

Pursuant to lawful notice, the Commission held an open meeting at 1701 N. Congress Avenue, in Room 1-111, Austin, Texas, on the 22nd day of June 2004 commencing at 9:30 a.m. Chairman Victor G. Carrillo and Commissioners Charles R. Matthews and Michael L. Williams were present. Chairman Carrillo presided.

- I. The Commission convened for the purpose of conducting the monthly Oil and Gas Statewide Hearing. The Commission approved and signed the order setting the lawful market demand for the month of July 2004.
- II. The Commission began consideration of matters falling within the Railroad Commission's Gas Services Division regulatory jurisdiction.
 - A. In consideration of Gas Utilities Docket No. 9486, the Complaint of Devon Gas Services L.P. against Panola Pipeline Company, L.P. the Commission denied the interim appeal of Examiners' Letter No. 4. Denial of the interim appeal was recommended by Examiner Gene Montes.
 - B. In consideration of Gas Utilities Docket No. 9364, the Joint Petition of Centerpoint Energy Entex and the City of Tyler for review of charges for gas sales, Examiner Gene Montes recommended the Commission deny the interim appeal of Examiners' Letter No. 16 filed by the City of Tyler in which the city appeals the ruling of the examiners' denial of the rate case expenses. On motion of Chairman Carrillo, with a second by Commissioner Matthews, the Commission voted to defer this matter to the next regularly schedule conference to allow time for the submission of further information.
 - C. In consideration of Gas Utilities Docket No. 9515, the Statement of Intent filed by Plains Gas Farmers coop to change rates for the unincorporated area of Parmer County, Texas, the Commission suspended the proposed rates for a period of 150 days as recommended by Examiner Mark Brock.
 - D. In consideration of LPG Docket No. 1754, the enforcement action against Haskell Butane Co. Inc. for alleged violations of the LP-gas safety rules at their Bulk Storage Facility in Haskell County, Texas, the Commission assessed an administrative penalty in the amount of \$1,250.00 as recommended by Enforcement Director Boyd Johnson.

- E. In consideration of LPG Docket No. 1759, the enforcement action against Ferrell Gas, L.P. (License No. 09280) for alleged violation of the Commission's LP-gas safety rules and Texas Natural Resources code, at the Ferrell Gas Angleton Bulk Storage facility in Brazoria County, Texas, the Commission assessed an administrative penalty in the amount of \$2,500.00 as recommended by Enforcement Director Boyd Johnson.
 - F. The Commission deferred consideration of Gas Utilities Docket Nos. 9432 and 9434 regarding Enbridge Pipelines (East Texas) and (NE Texas) L.P.'s request for approval of Direct Assessment Methodologies as part of their Integrity Assessment and Risk Management Plan.
 - G. In consideration of Gas Utilities Docket No. 9420, 9421, and 9433, the Commission approved Direct Assessment Methodologies as part of Enbridge Pipelines (East Texas) (Texas Intrastate) and (Texas Gathering) L.P.'s Integrity Assessment and Risk Management Plan. Approval was recommended by Director of Enforcement Boyd Johnson and Safety Director Mary McDaniel.
- III. The Commission began consideration of matters falling within the Railroad Commission's Surface Mining regulatory jurisdiction.
- A. In consideration of Docket No. C3-0018-SC-34-B, the Commission approved the application by TXU Mining Company LP for Revision Application No. 10, for Permit No. 34D, Monticello Winfield Mine, Revision to HR-10 Permanent Impoundment and H Area Pit. Approval was recommended by Examiner Mark Helmueller.
 - B. The Commission considered Docket No. C3-0021-SC-34-B, the application by TXU Mining Company LP for Revision No. 11, for Permit No. 34D, Monticello Winfield Mine, Titus and Franklin Counties, Texas. The Commission heard comments from Mr. Danny Crump. The Commission also heard comments from Mr. Richard Hamala representing Danny Crump and from Mr. Matt Henry, representing TXU Mining. On motion of Commissioner Williams, seconded by Commissioner Matthews, the Commission voted (3-0) to approve the application as recommended by Examiner Marcy J. Spraggins.
 - C. In consideration of Docket No. C4-0008-SC-05-B, the Commission approved the application of TXU Mining Company LP for Revision Application No. 2, Permit No. 5E, Monticello Thermo Mine, Hopkins County, Texas. Approval was recommended by Examiner Marcy J. Spraggins.

- D. In consideration of Docket No. C4-0011-SC-34-F, the Commission approved the application of TXU Mining Company LP for Release of Reclamation Obligations, Phases I-III (Backfilling, Regrading, Drainage Control, Revegetation, and Completion of Extended Responsibility Period), Permit No. 34D, Monticello Winfield Mine, Titus and Franklin Counties, Texas. Approval was recommended by Examiner Marcy J. Spraggins.
- IV. The Commission began consideration of matters falling within the Railroad Commission's Oil and Gas regulatory jurisdiction.
- A. The Commission took the following action on applications appearing on the protested docket of the Oil and Gas Division:
 - 1. In consideration of Docket No. 05-0238429, the Commission approved the application of XTO Energy, Inc., to construct and operate a Hydrogen Sulfide gas pipeline and facility to be known as the Teague Townsite Compressor Station – Low Pressure Suction Line, in Freestone County, Texas. Approval was recommended by Examiner Margaret Allen.
 - 2. The Commission considered Oil and Gas Docket Nos. 01-0234538, 01-0234543, 01-0234544, 01-0234553, 01-0234554, 01-0234555, 01-0235118, 01-0234119, 01-0235120, 01-0235818, 01-0235819, 01-0235820, 01-0235821, 01-0235822, 01-0235823, 01-0235824, 01-0235825, 01-0235826, 01-0235827, 01-0235828, 01-0235829, 01-0235830, 01-0235831, 01-0235832, 01-0235833, 01-0235834, 01-0235835, 01-0235836, 01-0235837, 01-0235838, 01-0235839, 01-0235840, 01-0235842, 01-0235843, 01-023544 and 01-0235845, the applications of CalTex Energy Co. for exceptions to Statewide Rule 21 to produce by swabbing, bailing or jetting 157 wells on 36 leases, Stapes, Dale McBride, Buchanan, Dunlap, Darst Creek (Buda) Tenney Creek, Spiller, and Lytton Springs Fields, Caldwell and Guadalupe Counties, Texas. The Commission heard comments from Mr. John Soule, representing CalTex Energy Co. Commissioner Williams made a motion to add a condition recommended by Mr. Soule to the order. The motion died for lack of a second. Commissioner Matthews made a motion to approve the examiner's recommendation. This motion also failed for lack of a second. On motion of Chairman Carrillo, the Commission voted (3-0) to approve the examiner's recommendation with one condition relating to the plugging fund. Examiner Doherty stated he would need additional time to work on the technical language of the plugging fund condition and prepare a revised order to be presented at the next conference.

3. In consideration of Docket No. 09-0228310, the enforcement action against Mobil Petro Vac., Inc. and/or Richard Reynolds for violations of Statewide Rules on the Novak, Barbara (09139) Lease, Well Nos. 2A, 3, 3A, 4, 4A, and 7, Baylor County Regular Field, Baylor County, Texas, the Commission assessed an administrative penalty in the amount of \$22,000 as recommended by Examiner Mark Helmueller.
 4. In consideration of Docket No. 05-0228749, the Commission denied the motion for rehearing filed in the enforcement action against Max D. Anderson DBA Black Jack Oil for violations of Statewide Rules on the Posey (03756) Lease, Well Nos. P2 and P5, (RRC Permit Nos. P489716 and P487644), Wildcat Field, Hill County, Texas. Denial of the motion was recommended by Examiner Mark Helmueller.
 5. The Commission took no action regarding Docket No. 0237672, Crown Petroleum Corp. for an exception to Statewide Rule 37 for the Blackstone Lease, Well No. 4, Wildcat (00006001) Field, Sour Lake, E. (Kirby FB-A) (84697425) Field, Hardin County, Texas.
 6. The Commission took no action regarding the appeal of Thrall Operating Company, Inc., of the examiner's Good Faith Claim Determination regarding the Single-Signature Form P-4 filed by Electra Gas, Inc., for a Change of Operator of the Bengston, Augusta, Est. (01285) Lease, New Sweden Field, Travis County, Texas.
 7. Regarding Complaint File Nos. 2004-014 and 2004-015, the Commission heard comments from Mr. Dan Miller regarding the Complaints of Killam Oil Company, Ltd. concerning The Houston Exploration Company, Munoz Well Nos. 8 and 9, Haynes (Middle Wilcox Cons.), Munoz (Lobo), and Wildcat Fields, Zapata County, Texas. Mr. Miller represents Killam Oil Company, Ltd. and appeals the Examiners interim ruling. The Commission also heard comments from Examiner Jim Doherty regarding his recommendation to deny the interim appeal. On motion of Commissioner Matthews, the Commission voted to deny the interim appeal regarding these two complaints.
- B. The Commission took action on applications appearing on the Oil and Gas Unprotested Consent Agenda, Agreed Enforcement Orders, and Master Default Orders.
- C. At 11:15 a.m., the Commission recessed for a short time. At 11:25, the Commission reconvened in 1-111 to continue consideration of matters authorized by law.

D. Rules Notebook: Deputy General Counsel Polly McDonald.

1. As requested by Commissioner Williams, the Commission deferred consideration of proposed amendment of 16 Tex. Admin. Code §§7.115, 7.205, 7.210, 7.220, 7.230, 7.315 and 7.465 relating to Definitions, Contents of Statements of Intent and Petitions for Review of Municipal Action, Increasing Residential and Commercial Rates—Statement of Intent, Environs Rates, Contents of Notice, Filing of Tariffs, and Abandonment, and proposal of new 16 Tex. Admin. Code §§7.228 and 7.513, relating to Application for Interim Rate Adjustment and Methodology for Interim Rate Adjustments and Procedure for Review to implement Texas Utilities Code, §§105.301, Interim Adjustment for changes in Investment, enacted by Senate Bill 1271, 78th Legislature (2003), Regular Session.
2. The Commission adopted proposed amendments to Tex. Admin. Code §3.80 (Statewide Rule 80), relating to Commission Forms, applications, and Filing Requirements, to adopt the new Security Administrator Designation Form and make corrections.
3. The Commission adopted amendment to 16 Tex. Admin. Code §7.45(5)(C)(i), relating to Quality of Service, to authorize Crime Victims Services Division of the Office of the Attorney General to certify victims of family violence to obtain waivers of gas utility service deposit.

V. The Commission began consideration of matters authorized by law including the administration, budget, procedures and personnel of the following divisions as presented by the division director or other authorized personnel.

A. Executive Office: Deputy Executive Director Kathy Pyka

1. The Commission approved the Strategic Plan for Fiscal years 2005 through 2009.
2. Regarding amendment of the Oil and Gas Migration Contract with Maximus, Inc., the Commission deferred this matter until later in the afternoon.

B. Intergovernmental and Public Relations: Director Stacie Fowler

1. The Commission discussed and approved various internal legislative proposals for the 79th Legislative Session.

C. AFRED: Director Dan Kelly

1. The Commission approved the TERP Forklift Initiative which is the interagency grant contract with the Texas Commission on Environmental Quality to reduce nitrous oxide (NOx) emissions in eligible counties under the Texas Emissions Reduction Plan (TERP), by operating an incentive program for owners and operators of industrial lift trucks. This includes a proposal for covering the administrative costs of the proposed program, the proposed administrative budget, and authorization to post and fill 1.5 FTE temporary positions to administer the proposed program.

D. Safety Division: Director Mary McDaniel

1. The Commission received an update regarding Kinder Morgan Pipeline Company's Rancho Pipeline Conversion Project, including a report on the safety evaluations conducted as well as responses to questions raised regarding leak repairs and hydrostatic testing.

E. Oil and Gas: Director Rich Varela

1. The Commission approved the recommendation to plug with state funds and to solicit bids and award a state-funded plugging contract for the Manhattan Petroleum Company (524389) S.K. East Lease (11376), 81 wells, Prado (Combined Zones) Field, Jim Hogg county, Texas for an estimated plugging cost of \$704,700.
2. The Commission approved the use of Oil Field Cleanup funds to conduct cleanup activities at the Texas Saltwater Injection Corp. (847995) Truett Bentley (04413) Lease, Runnels County, Texas.

F. General Counsel Lindil Fowler

1. The Commission received a report on the status of pending rulemakings.

VI. With no further business to come before the Commission at this time, the conference was adjourned at 12:30 p.m.